

MAY 20 2002



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In re Application of LEIJON et al
U.S. Application No.: 09/926,608
Int. Application No.: PCT/SE99/00944
Int. Filing Date: 28 May 1999
Priority Date: none
Attorney Docket No.: 216272US
For: A WIND POWER PLANT AND A METHOD
FOR CONTROL

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DECISION

This is in response to applicant's "Response to Communication" filed 10 May 2002, including a copy of a declaration purportedly filed on 08 March 2002. The response is being treated as a petition under 37 CFR 1.181 to treat the copy of the declaration as having been originally filed on 08 March 2002. No petition fee is due.

BACKGROUND

On 28 May 1999, applicant filed international application PCT/SE99/00944. A copy of the international application was communicated to the USPTO from the International Bureau on 07 December 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 30 November 2000, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 28 November 2001.

On 26 November 2001, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 15 January 2002, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371, which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 20 March 2002, applicant filed a petition for suspension of action under 37 CFR 1.103.

On 23 April 2002, this Office mailed a communication which stated that a decision on the 20 March 2002 petition would be held in abeyance pending the submission of a proper response to the 15 January 2002 Notification of Missing Requirements.

On 10 May 2002, applicant filed the present petition under 37 CFR 1.181. The petition states that it is accompanied by a copy of a return postcard indicates that a declaration was filed on 08 March 2002.

DISCUSSION

The evidence of record is sufficient to establish that the declaration was originally filed on 08 March 2002. Specifically, the copy of the return postcard, which includes an "Combined Declaration, Petition & Power of Attorney" in its itemized contents and which bears a USPTO date stamp of 08 March 2002, serves as *prima facie* evidence that the declaration was received by the USPTO on 08 March 2002.

CONCLUSION

The petition under 37 CFR 1.181 is GRANTED.

The application has an International Filing Date of 28 May 1999 and a date under 35 U.S.C. 371 of 08 March 2002.

The application is being returned to the DO/EO/US for processing in accordance with this decision. Thereafter, the application will be forwarded to the appropriate Technology Center for consideration of the petition for suspension of action under 37 CFR 1.103 in accordance with MPEP 709.



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